



THE ATTORNEY GENERAL
OF TEXAS

CRAWFORD C. MARTIN
ATTORNEY GENERAL

AUSTIN, TEXAS 78711

July 21, 1970

Honorable Jules Damiani, Jr.
Criminal District Attorney
Galveston County Courthouse
Galveston, Texas 77550

Opinion No. M- 661

Re: Whether a county may make
grants of public funds to
a religious charitable
institution.

Dear Mr. Damiani:

Your request for an opinion of the above subject
matter asks:

"Whether or not Galveston County can make
a grant of public funds to Saint Vincent's
House which is a religious charitable insti-
tution."

Section 50 of Article III of the Constitution of
Texas reads:

"The Legislature shall have no power to
give or to lend, or to authorize the giving or
lending, of the credit of the State in aid of,
or to any person, association or corporation,
whether municipal or other, or to pledge the
credit of the State in any manner whatsoever,
for the payment of the liabilities, present
or prospective, of any individual, association
of individuals, municipal or other corporation
whatsoever."

Section 51 of Article III of the Constitution of
Texas provides, in part:

"The Legislature shall have no power to
make any grant or authorize the making of any
grant of public moneys to any individual, as-
sociation of individuals, municipal or other
corporations whatsoever; . . ."

Section 52 of Article III of the Constitution of
Texas provides, in part:

"The Legislature shall have no power to authorize any county, city, town or other political corporation or subdivision of the State to lend its credit or to grant public money or thing of value in aid of, or to any individual, association or corporation whatsoever, or to become a stockholder in such corporation, association or company; . . ."

Section 3 of Article VIII of the Constitution of Texas reads:

"Taxes shall be levied and collected by general laws and for public purposes only."

Section 3 of Article XI of the Constitution of Texas provides:

"No county, city or other municipal corporation shall hereafter become a subscriber to the capital of any private corporation or association, or make any appropriation or donation to the same, or in anywise loan its credit; but this shall not be construed to in any way affect any obligation heretofore undertaken pursuant to law."

Section 6(a) of Article XVI of the Constitution of Texas reads:

"No appropriation for private or individual purposes shall be made, unless authorized by this Constitution. A regular statement, under oath, and on account of the receipts and expenditures of all public money shall be published annually, in such manner as shall be prescribed by law."

In Attorney General's Opinion O-5563 (1943) it was held that the above quoted constitutional provisions* did not allow Travis County to contribute moneys monthly for the support of the Alheim, the Settlement Club and the Childrens' Home, all private charitable institutions. We quote from Attorney General's

*The amendment of Article XVI in 1966, subsequent to Opinion O-5563, did not alter the substantive portion of that Article which is applicable to the question now before us.

Opinion O-5563 as follows:

"In Opinion No. O-1001 this department held that under the Articles of the Constitution referred to, a county has no authority to make donations to the Tuberculosis Association, the American Red Cross or other private charitable organization; and reference was made in the opinion to conference Opinion No. 2662 of this department, dated February 4, 1927, 1926-1928 Attorney General's Report, page 390, et seq., holding that the commissioners' court has no authority to appropriate public funds to charitable institutions managed and controlled by private individuals.

"We still adhere to the views expressed in those opinions and we must, therefore, advise you that, under the Constitution of Texas, Travis County may not make the donations which were the subject of your opinion requests."

Likewise it was held in Attorney General's Opinion O-7197 (1946):

"Conference Opinion No. 2662 of this department, dated February 4, 1927, book 62, page 46, Reports and Opinions of the Attorney General, 1926-1928, and followed in numerous opinions, among which are Opinions No. O-1001 approved December 13, 1939, and O-5563 approved September 17, 1943, held that the commissioners' court has no authority to appropriate or donate public funds to charitable institutions, operated and managed or controlled by private individuals.

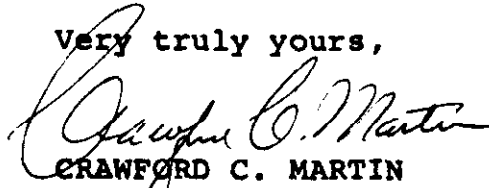
"In view of the foregoing authorities, you are respectfully advised that in the opinion of this department the Commissioners' Court is without legal authority to donate county funds to the building within the county of a privately chartered co-operative hospital."

In view of the foregoing you are advised that Galveston County has no authority to make a grant of public funds to a religious charitable institution.

S U M M A R Y

A county has no authority to make a grant of public funds to a religious charitable institution.

Very truly yours,


CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by John Reeves
Assistant Attorney General

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